

Ronald Lovitt, Bar No. 040921
J. Thomas Hannan, Bar No. 039140
Henry I. Bornstein, Bar No. 075885
LOVITT & HANNAN, INC.
900 Front Street, Suite 300
San Francisco, California 94111
Telephone: (415) 362-8769
Facsimile: (415) 362-7528
rl@lh-sf.com, jth@lh-sf.com, hib@lh-sf.com
Attorneys for Defendants
K-M Industries Holding Co. Inc.;
K-M Industries Holding Co. Inc. ESOP Plan Committee;
and CIG ESOP Plan Committee

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THOMAS FERNANDEZ and LORA SMITH,)	Case No. C 06-07339 MJJ
individually and on behalf of a class of all other)	
persons similar situated,)	DECLARATION IN SUPPORT OF REQUEST
)	FOR ORDER EXTENDING DEADLINE FOR
Plaintiffs,)	SERVICE OF DEFENDANTS' WRITTEN
vs.)	RESPONSES TO DISCOVERY
)	PROPOUNDED BY PLAINTIFFS
K-M INDUSTRIES HOLDING CO., INC.; K-)	[STANDING ORDER, ¶ 7]
M INDUSTRIES HOLDING CO., INC. ESOP)	
PLAN COMMITTEE; WILLIAM E. AND)	
DESIREE B. MOORE REVOCABLE TRUST;)	
TRUSTEES OF THE WILLIAM E. AND)	
DESIREE B. MOORE REVOCABLE TRUST;)	
ADMINISTRATOR OF THE ESTATE OF)	
WILLIAM E. MOORE, DECEASED; CIG)	
ESOP PLAN COMMITTEE; and NORTH)	
STAR TRUST COMPANY,)	
)	
Defendants.)	
)	
)	
)	
)	
)	

1 I, Henry I. Bornstein, do hereby declare as follows:

2 1. I am of counsel to Lovitt & Hannan, Inc., counsel to defendants K-M Industries
3 Holding Co., Inc., K-M Industries Holding Co., Inc. ESOP Plan Committee CIG ESOP Plan
4 Committee in this matter. I submit this Declaration in support of defendants' request for an order
5 granting an extension of the deadline for service of defendants' written responses to discovery
6 propounded by plaintiffs. The statements in this Declaration are based upon my personal
7 knowledge, and if called as a witness, I would testify as follows.

8 2. On April 2, 2007, Plaintiffs served requests for production of documents, requests for
9 admissions and interrogatories on all Defendants.

10 3. Under the Federal Rules of Civil Procedure, Defendants' responses to Plaintiffs' first
11 set of requests for production of documents, requests for admissions, and interrogatories are due on
12 May 7, 2007.

13 4. Mr. Dan Stritmatter, a key employee of defendant K-M Industries Holding Co., Inc.
14 who possesses information necessary to respond to these discovery requests and who will be making
15 the responses to the requests on behalf of the company, has been traveling in Europe and will be
16 unavailable until after May 4, 2007.

17 5. Defendants therefore require a short extension of time within which to serve
18 responses to Plaintiffs' discovery requests until May 11, 2007 in order to allow Mr. Stritmatter to
19 respond to the requests on behalf of the company.

20 6. Accordingly, all parties have stipulated to the following:

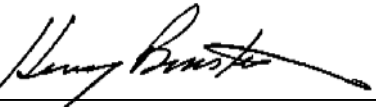
21 a. All Defendants shall serve written responses to Plaintiffs' first set of requests
22 for admission and first set of interrogatories no later than May 11, 2007;

23 b. Defendants K-M Industries Holding Co., Inc., K-M Industries Holding Co.,
24 Inc. ESOP Plan Committee CIG ESOP Plan Committee shall serve written responses to
25 Plaintiffs' first set of requests for production of documents no later than May 11, 2007.

26 c. The deadline for Defendant William E. And Desiree B. Moore Revocable
27

1 Trust and Defendant North Star Trust Company to respond to Plaintiffs' requests for
2 production shall remain unchanged.

3
4 I declare under penalty of perjury under the laws of the United States that the foregoing is
5 true and correct. Executed at Berkeley, California on May 1, 2007.

6
7
8 
9 _____
Henry I. Bornstein